IN THE HIGH COURT OF UTTARANCHAL,
AT NAINITAL

WRIT PETITION NO. 762 M/S 2004

Mrs. Evengeline Smith. …Petitioner.

Versus

Civil Judge (S.D.)/ Addl. District Judge/FTC, Dehradun. … Respondents.

HON"BLE RAJESH TANDON J.

By the present writ petition the petitioner has challenged the order dated 09.03.2004 by which the application under Order XXII CPC has been allowed.

Briefly stated, the suit was filed in the year 1999 praying for a decree for permanent injunction with a prayer that the defendant, their agents and associates be restrained from in any way interfering in the running of the plaintiff's school in the property detailed in the schedule. Further prayer was made not to dispossess the plaintiff without the process of law. During the pendency of suit Mrs. Irene Liddle had expired. An application under Order XXII was filed. An objection was raised by the defendant that she was Superintendent of Hill View International School Haldwani. The application has been allowed observing that if the defendant wants to raise any objection the same may be taken in the written statement itself. In my opinion, the defendant is at liberty to file an application on behalf of defendant No.4 as stated in para 3 of his objection. If such an application for impalement is made the learned court below shall pass appropriate orders impleading the successor of

the defendant NO.4 in view of the objections raised in para 3 of the objections which shall be considered first before the suit proceeds.

Subject to the aforesaid, the writ petition is dismissed. No order as to costs.

Dated :17.08, 2004. **(Hon'ble Rajesh Tandon J.)**

S.S. Negi.